

In the Matter of Merchant Mariner's Document No. Z-278408
Issued to: MARIANO SORIA CABERO

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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MARIANO SORIA CABERO

This case comes before me by virtue of Title 46 United States Code 239(g) and 46 Code of Federal Regulations 137.11-1.

On 31 January, 1949, an Examiner of the United States Coast Guard entered an order revoking Merchant Mariner's Document No. Z-278408 held by Mariano Soria Cabero upon finding him guilty of misconduct based upon the allegations of a specification that while serving as messman on the American steamship JOHN WANAMAKER, under authority of his duly issued Merchant Mariner's Document, he did on or about 6 November, 1947, while said vessel was at Brooklyn, New York, have in his possession certain quantities of narcotics; to wit, marijuana, contrary to law.

Appearing with counsel, Appellant pleaded "guilty" to the charge but urged that clemency should be granted because of his excellent record and reputation. In support of his plea for clemency, he introduced three persons whose testimony was unimpeached and directly established Appellant's excellent record before and since the incident which is the basis for the action here taken. Notwithstanding such evidence, the Examiner entered the order of revocation.

From that order, this appeal has been taken and it is contended:

- (a) Appellant enjoyed an excellent reputation;
- (b) The quantity of marijuana on his person was trifling;
- (c) The penalty imposed is harsh and unreasonable;
- (d) Had Appellant realized that his conviction in the Federal Court for the same offense, and for which he paid the nominal penalty imposed, would have resulted in the deprivation of his livelihood, he would not have pleaded guilty; and
- (e) The order of revocation should be vacated and Appellant's documents returned to him upon reasonable probationary terms and conditions.

OPINION

While I am favorably impressed with the testimony in the record respecting Appellant's excellent reputation and record as a merchant seaman and in other employment, I find no reason for deviating from the policy which has been established of endeavoring as far as possible to protect American seamen from the risk of injury or death at the hands of persons who become involved with narcotics and drugs in any way and for any reason.

This Appellant's record does not excuse his possession of marijuana on the occasion in question; nor does the amount at all affect his responsibility. I have consistently held that persons who have associations with the violation of narcotic and drug statutes of the United States are undesirable seamen in the American Merchant Marine - not only for their own good, but as well for the safety of the lives of their shipmates and the property on which they are employed.

I find nothing to warrant my intervening in this case.

CONCLUSION AND ORDER

It is ordered and directed that the decision and order of the Coast Guard Examiner dated 31 January, 1949, should be, and it is AFFIRMED.

J.F. FARLEY
Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 23rd day of March, 1949.